

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 31-002(g)(3)

Specific Purpose:

This section is being amended to include additional relevant statutory citations regarding the appointment of guardians by the juvenile court.

Factual Basis:

These amendments are necessary for clarity and consistency and to correct the existing regulations. A reference to the Welfare and Institutions (W&I) Code section 360 is necessary because it pertains to establishing a legal guardianship of a dependent child of the juvenile court. Similarly, a reference to W&I Code section 728(d) is necessary because it pertains to establishing a legal guardianship of a ward of the juvenile court. The use of these citations is consistent with the citations included in proposed Sections 31-002(k)(3) (definition of “kinship guardian”) and 31-002(n)(3) (definition of “nonminor former dependent”).

Handbook Section 31-002(g)(3)(A)

Specific Purpose:

This handbook section is being adopted to provide a cross-reference to the definition of “kinship guardian” in proposed Section 31-002(k)(3).

Factual Basis:

This handbook section is necessary for clarity and consistency. The definition of “kinship guardian” is new to these regulations and this handbook section will help ensure that the reader does not overlook or misconstrue the information provided.

Section 31-002(k)(3)

Specific Purpose:

This section is being adopted to provide a definition of “kinship guardian.”

Factual Basis:

This section is necessary for consistency with the definition of “kinship guardian” in W&I Code sections 11362(b) (state Kin-GAP Program) and 11391(b) through (b)(2) (federal Kin-GAP Program).

This definition is also consistent with the definition of “kinship guardian” in proposed Manual of Policies and Procedures (MPP) section 45-601(k)(1) of the eligibility and assistance standards.

Overall, this definition is necessary to ensure consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 31-004(k)(4)

Specific Purpose:

This section is being adopted to provide a definition of “kinship guardianship assistance payments (Kin-GAP).”

Factual Basis:

This section is necessary for consistency with W&I Code sections 11362(a) and 11391(a), which define the aid paid on behalf of a former foster child living with a kinship guardian.

This definition is also consistent with the definition of Kin-GAP in proposed MPP section 45-601(k)(2).

Overall, this definition is necessary to ensure consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 31-002(n)(3)

Specific Purpose:

This section is being adopted to provide a definition of “nonminor former dependent.”

Factual Basis:

This section is necessary for consistency with the definition of “nonminor former dependent” in W&I Code section 11400(aa). This term was added to statute by Assembly Bill (AB) 1712, Chapter 846, Statutes of 2012. It had been used previously in statute but had not been defined.

The full definition of “nonminor former dependent” in proposed Section 31-002(n)(3) is necessary for clarity and consistency within the context of the broader child welfare program regulated by Division 31. Please see the following regarding proposed Sections 31-002(n)(3)(A) and (B):

- For Kin-GAP purposes, the definition of “nonminor former dependent” in proposed Section 31-002(n)(3)(B) is consistent with the definition of “nonminor former dependent” in proposed MPP section 45-601(n). Proposed Section 31-002(n)(3)(B) is necessary to ensure consistency and uniformity in the statewide administration of the Kin-GAP Program.
- For broader child welfare purposes, proposed Section 31-002(n)(3)(A) pertains to a nonminor who is no longer a dependent of the court but is still under the general jurisdiction of the court. An upper age limit is not necessary in this section because W&I Code section 303 explicitly permits the court to retain its general jurisdiction up to age 21.
- Proposed Section 31-002(n)(3)(B), on the other hand, pertains to a nonminor whose dependency or wardship was dismissed following the establishment of a guardianship, whether it be a kinship guardianship (a requirement of the Kin-GAP Program) or a nonrelated legal guardianship (NLRG). In this section, an upper age limit of 21 was added for clarity and consistency. Eligibility for both Kin-GAP and the NLRG Programs end at age 21, but statute does not specifically establish such an upper age limit.

Section 31-002(n)(4) is renumbered from Section 31-002(n)(3)

Specific Purpose/Factual Basis:

This section is being renumbered from Section 31-002(n)(3) to Section 31-002(n)(4) to accommodate the addition of the preceding definition of “nonminor former dependent.”

Section 31-002(r)(5)

Specific Purpose/Factual Basis:

This section is being amended to make minor editorial changes for clarity and consistency.

Section 31-002(r)(5)(A)

Specific Purpose:

This section is being adopted to conditionally expand the existing definition of “relative.”

Factual Basis:

This section is necessary for consistency with the conditional, expanded definition of “relative” in W&I Code sections 11391(c)(2) through (c)(4). This expanded definition of “relative,” which applies to the federal Kin-GAP Program only and was subject to federal approval of amendments to CDSS’ state plan, was added to statute by AB 1712. On May 19, 2014, the federal Department of Health and Human Services notified CDSS that, effective January 1, 2014, it had approved California’s request to amend its definition of a relative to include fictive kin for federal Kin-GAP purposes pursuant to W&I Code section 11391(c).

This definition is consistent with the definition of “relative” in proposed MPP sections 45-601(r)(2) and (3).

Overall, this definition is necessary to ensure consistency and uniformity in the statewide administration of the Kin-GAP Program.

Handbook Section 31-002(r)(5)(B)

Specific Purpose/Factual Basis:

This handbook section provides the text of the conditional, expanded definition of “relative” in W&I Code sections 11391(c)(2) through (c)(4). This is necessary for clarity, consistency and ease of use.

Section 31-002(v)(2)

Specific Purpose/Factual Basis:

This section is being amended to make a minor editorial change and to correct a statutory reference for clarity and consistency.

Handbook Section 31-002(v)(2)(A)

Specific Purpose:

This handbook section is being adopted to provide the statutory definition of “voluntary placement.”

Factual Basis:

This handbook section is necessary for clarity, consistency and ease of use.

More specifically, this handbook section is necessary for clarity and consistency because W&I Code sections 11363(a)(2) and 11386(a)(2) provide that a Kin-GAP eligible child must reside in the approved home of a relative guardian “while under the jurisdiction of

the juvenile court or a voluntary placement agreement.” While these proposed regulations do not provide eligibility criteria for Kin-GAP, they will be used in conjunction with the proposed eligibility regulations in MPP section 45-600 et seq.

In addition, All County Letter (ACL) 11-15 discusses voluntary placements on page six. ACL 11-15 contains the implementing instructions for AB 12, Chapter 559, Statutes of 2010, pursuant to W&I Code section 11393(a).

Section 31-002(v)(3)

Specific Purpose/Factual Basis:

This section is being amended to correct a statutory reference for clarity, consistency and ease of use.

Handbook Section 31-002(v)(3)(A)

Specific Purpose:

This handbook section is being adopted to provide the statutory definition of “voluntary placement agreement.”

Factual Basis:

This handbook section is necessary for clarity, consistency and ease of use. Please also see the justification under Section 31-002(v)(2)(A).

Section 31-003(k)(1)

Specific Purpose:

This section is being adopted to describe and to incorporate by reference, the following required form: KG 1 (12/11), Kin-GAP Mutual Agreement for 18 Year Olds. The purpose of this form is to document the mutual agreement between the placing agency and the nonminor dependent when a youth receiving Kin-GAP requests continuation of Kin-GAP payments while the youth completes high school or a vocational program prior to reaching the age of 19.

Factual Basis:

This section is necessary to implement W&I Code section 11403.01. This statute allows a Kin-GAP payment to be made on behalf of a nonminor former dependent after the age of 18 if he or she is in the process of completing high school or a vocational program (by age 19), resides with a kinship guardian and has signed a mutual agreement with the placing agency (the KG 1 form).

This section is consistent with proposed MPP section 45-601.2(k)(1). Moreover, this form is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

This section is also necessary to better inform social services personnel and others about the requirements of the Kin-GAP Program. While eligibility standards for Kin-GAP fall under the purview of proposed MPP section 45-600 et seq., social workers, probation officers and tribal social services personnel need to be aware of this form so that they can provide adequate information and assistance regarding the Kin-GAP Program as needed.

Section 31-003(k)(2)

Specific Purpose:

This section is being adopted to describe, and to incorporate by reference, the following required form: KG 3 (12/11), Kin-GAP Mutual Agreement for Nonminor Former Dependents. The purpose of this form is to document the mutual agreement between the placing agency and the nonminor former dependent when the youth receiving Kin-GAP meets the requirements for extended Kin-GAP benefits from age 18 up to age 21.

Factual Basis:

This section is necessary to implement W&I Code section 11403(b), which allows a Kin-GAP payment to be made on behalf of a nonminor former dependent after the age of 18 if certain criteria are met. This form establishes the child's Kin-GAP eligibility for continued receipt of aid after the age of 18 and up to the age of 21.

This section is consistent with proposed MPP section 45-601.2(k)(3). Moreover, this form is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

This section is also necessary to better inform social services personnel and others about the requirements of the Kin-GAP Program. While eligibility standards for Kin-GAP fall under the purview of proposed MPP section 45-600 et seq., social workers, probation officers and tribal social services personnel need to be aware of this form so that they can provide adequate information and assistance regarding the Kin-GAP Program as needed.

Section 31-003(s)(1)

Specific Purpose:

This section is being adopted to describe and to incorporate by reference, the following required form: SOC 369 (12/10), Agency-Relative Guardianship Disclosure.

Factual Basis:

This section is necessary to comply with W&I Code sections 11364(a) and (b) and 11387(a) and (b). Kin-GAP payments cannot be made unless the specified parties negotiate and enter into the mutual agreement documented on the SOC 369 form.

The SOC 369 form is also necessary to help inform a prospective kinship guardian of available funding and program options pursuant to W&I Code sections 11364(e) and 11387(e), such as the Kin-GAP Program and Aid to Families with Dependent Children-Foster Care (AFDC-FC).

Further, this section is necessary to implement proposed Sections 31-425.41, 31-425.412, and 31-425.42. It is also consistent with proposed MPP section 45-601.2(s)(1). Moreover, this form is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Finally, this section is necessary to better inform social services personnel and others about the requirements of the Kin-GAP Program. While eligibility standards for Kin-GAP fall under the purview of proposed MPP section 45-600 et seq., social workers, probation officers and tribal social services personnel need to be aware of this form so that they can provide adequate information and assistance regarding the Kin-GAP Program as needed.

Section 31-003(s)(2)

Specific Purpose:

This section is being adopted to describe and to incorporate by reference, the following required form: SOC 369A (11/11), Kinship Guardianship Assistance Payment (Kin-GAP) Program Agreement Amendment. The purpose of this form is to both amend and supplement the SOC 369 form. It is used both to establish the Kin-GAP rate of payment at the initiation of the case and, as necessary, to amend the initial agreement after the Kin-GAP case has been established.

Factual Basis:

This section is necessary to comply with W&I Code sections 11364(a) and (b) and 11387(a) and (b). Kin-GAP payments cannot be made unless the specified parties negotiate and enter into the mutual agreement documented on the SOC 369 form, which is used in conjunction with the SOC 369A form.

Like the SOC 369 form, the SOC 369A form is necessary to help inform a prospective kinship guardian of available funding and program options pursuant to W&I Code sections 11364(e) and 11387(e).

Further, this section is necessary to implement proposed Sections 31-425.41,

31-425.412 and 31-425.42. It is also consistent with proposed MPP section 45-601.2(s)(2). Moreover, this form is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Finally, this section is necessary to better inform social services personnel and others about the requirements of the Kin-GAP Program. While eligibility standards for Kin-GAP fall under the purview of proposed MPP section 45-600 et seq., social workers, probation officers and tribal social services personnel need to be aware of this form so that they can provide adequate information and assistance regarding the Kin-GAP Program as needed.

Sections 31-003(s)(3) through (s)(6) are renumbered from Sections 31-003(s)(1) through (s)(4)

Specific Purpose/Factual Basis:

These sections are being renumbered from Sections 31-003(s)(1) through (s)(4) to Sections 31-003(s)(3) through (s)(6) to accommodate the addition of the preceding definitions of the SOC 369 and SOC 369A forms.

Section 31-075.2

Specific Purpose/Factual Basis:

This section is being amended to make a minor editorial change for clarity and consistency.

Handbook Section 31-075.21

Specific Purpose/Factual Basis:

This handbook section is being adopted to provide the relevant parts of MPP section 23-353 for clarity, consistency and ease of use.

Section 31-075.22

Specific Purpose:

This section is being adopted to establish that the case record of a child eligible to receive Kin-GAP payments must be retained for a minimum of three years after the child's Kin-GAP case is closed; and to establish that Kin-GAP eligibility case file records are part of the case record.

Factual Basis:

This section is necessary to comply with Section 31-075.2 of the Child Welfare Services MPP, section 23-353 of the Operations MPP, W&I Code section 10851 and 45 Code of Federal Regulations (CFR) 74.2. This requirement is also consistent with information in ACL 11-15 regarding the retention of program-required forms for Kin-GAP (please see page 10).

In addition, this section is necessary for clarity and consistency. A child who receives Kin-GAP must have his or her dependency or wardship terminated concurrently with, or subsequently to, the establishment of a kinship guardianship pursuant to W&I Code sections 11363(a)(4) and 11386(e). At that point, the child is no longer a dependent or ward of the juvenile court but continues to receive Kin-GAP. Thus, it is necessary to make it clear that the case record of such a child must be retained for three years *after* the child's Kin-GAP case is closed, and not three years after the child is no longer a dependent or ward of the court. It is also necessary to make it clear that the case record includes the child's eligibility case file records, which document the child's continued eligibility to receive Kin-GAP.

Handbook Section 31-075.23 is renumbered from Section 31-075.21

Specific Purpose/Factual Basis:

This section is being renumbered from Section 31-075.21 to Section 31-075.23 to accommodate the addition of new Sections 31-075.21 and 31-075.22.

Section 31-075(h)(3)

Specific Purpose:

This section is being adopted to establish the requirement that, for a child for whom the permanency plan is a kinship guardianship, the assessment documentation specified in proposed Sections 31-205.1(h) through (h)(4)(A) must be part of the child's case record.

Factual Basis:

This section is necessary to comply with both statute and regulations. The assessment itself is performed pursuant to W&I Code sections 366.21(i) or 361.5(g). In addition, ACL 11-15 discusses assessment requirements on page five. Finally, existing Section 31-075(h) requires that all assessments be part of the case record.

Please also see the justification under Section 31-205(h).

Section 31-075(v)

Specific Purpose:

This section is being adopted to require that, when applicable, documentation regarding the appointment of a kinship guardianship for a child and the court order terminating dependency or wardship be part of the child's record.

Factual Basis:

This section is necessary to document the outcome for a child for whom the permanency plan is a kinship guardianship; that is, the child is no longer a dependent or ward of the juvenile court and is eligible to receive Kin-GAP payments, assuming all other requirements have been met. The W&I Code sections 11363(a)(3) and (4) specify that appointment of a kinship guardianship and termination of dependency or wardship are requirements for receipt of state-funded Kin-GAP, while W&I Code sections 11386(d) and (e) specify the same for receipt of federally funded Kin-GAP.

Handbook Sections 31-201.121(c)(3)(B)1. and 2.

Specific Purpose:

These handbook sections are being amended to delete outdated information and to provide updated statutory references and a website link to CDSS.

Factual Basis:

These updates are necessary for clarity, consistency and ease of use.

Sections 31-205.1(h) through (h)(4)(A)

Specific Purpose:

These sections are being adopted to provide the assessment documentation requirements that must be met if family reunification services are not recommended and the permanency plan for the child is a kinship guardianship.

Factual Basis:

These sections are necessary to comply, primarily, with W&I Code sections 366.21(i) and 361.5(g). In addition, ACL 11-15 contains instructions to counties regarding these assessment requirements on page five.

More specifically, the following applies to these sections:

Section 31-205.1(h)(1), regarding the requirement to document that being returned home or adopted are not appropriate permanency options for the child, is necessary to comply with W&I Code sections 366.21(c) and (f), 366.21(i)(1)(G) and (H), 366.22(c)(1)(F) and (G), 366.25(b)(1)(F) and (G), 361.5(g)(1)(F) and (G) and 727.3.

Section 31-205.1(h)(2), regarding the requirement to document that the child demonstrates a strong attachment to the prospective kinship guardian, is necessary to comply with W&I Code section 366.21(i)(1)(E) and 361.5(g)(1)(E).

Section 31-205.1(h)(3), regarding the requirement to document that the kinship guardian has a strong commitment to caring permanently for the child, is also necessary to comply with W&I Code sections 366.21(i)(1)(E) and 361.5(g)(1)(E).

Section 31-205.1(h)(4), regarding the requirement to document that a child over 12 years of age has been consulted about the proposed kinship guardianship arrangements, is necessary to comply with W&I Code sections 366.21(i)(1)(E) and 361.5(g)(1)(E).

Section 31-205.1(h)(4)(A), regarding the requirement to describe the condition of a child who cannot provide a meaningful response to being consulted about the proposed kinship guardianship arrangements, is also necessary to comply with W&I Code sections 366.21(i)(1)(E) and 361.5(g)(1)(E).

Sections 31-206.318(a) through (f)

Specific Purpose:

These sections are being adopted to provide, for a child for whom the permanency plan is a kinship guardianship, the documentation requirements for the child's case plan.

Factual Basis:

These sections are necessary to comply with federal requirements pertaining to the case plan for a child for whom the permanency plan is guardianship with a relative and receipt of Kin-GAP is anticipated. All of the case plan requirements in these sections are contained in 42 United States Code (U.S.C.) §§ 675(1)(F)(i) through (vi), under the federal definition of "case plan" (part of Public Law 110-351, the Fostering Connections to Success and Increasing Adoptions Act of 2008). In order to establish eligibility for federal participation in a Kin-GAP payment, federal law requires that the information in these sections be documented in the child's case plan prior to the kinship guardianship being ordered (once the kinship guardianship is ordered and the dependency is dismissed, a case plan is no longer required).

These sections are also necessary for consistency with related state requirements, as outlined in ACL 11-67, Case Plan and Kinship Guardianship Assistance Payment (Kin-GAP) Program, issued October 6, 2011. ACL 11-67 clarifies how California

satisfies the federal case plan requirements for a child for whom the permanency plan is a kinship guardianship.

California law considers the case plan to be the foundation and central unifying tool in child welfare services. Under California law, the requirements in these sections are found in the case plan as defined in multiple W&I Code sections including, but not limited to, Sections 706.6, 16002(a) and (b), 16010, 16501.1(f)(12)(A) and 16501.1(f)(15) and other documents (e.g., court reports, social studies, assessments and case plan updates). California's case-planning process is collaborative and involves all parties including the parents, the child and the child welfare or probation agency. This process includes consideration of documents containing historical information and assessments that parallel the federal requirements described in 42 U.S.C. § 675(1)(F)(i) through (vi).

More specifically, please see the following, which in part describes the documents in the child's case record that typically contain the federally required information (and that are included in the child's case plan or case plan update):

Section 31-206.318(a), regarding the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted, is necessary to comply with 42 U.S.C. § 675(1)(F)(i). This section is also consistent with information required in the preliminary assessment pursuant to W&I Code sections 366.21(c) and (f), 366.21(i)(1)(G), (H), 366.22(c)(1)(F) and (G), 366.25(b)(1)(F) and (G), 361.5(g)(1)(F) and (G) and 727.3; and included in the case plan update.

Section 31-206.318(b), regarding the reason(s) for any separation of siblings during placement, is necessary to comply with 42 U.S.C. § 675(1)(F)(ii). This section is also consistent with information required in the assessment, pursuant to W&I Code section 306.5, and reports pursuant to W&I Code sections 358.1(d), 366.1(f) and 706.6(i), and included in the case plan update. This section is also consistent with existing Section 31-206.311.

Section 31-206.318(c), regarding the reason(s) why a permanent placement with a relative through a kinship guardianship assistance arrangement is in the child's best interests, is necessary to comply with 42 U.S.C. § 675(1)(F)(iii). This section is also consistent with information required in the assessment, pursuant to W&I Code sections 366.21(c) and (f), 366.22(c)(2), 366.25(b)(2), 361.5(g)(1)(D) and (E), 706.5(c)(4) and 706.6(m) and included in the case plan update.

Section 31-206.318(d), regarding the ways in which the child meets the eligibility requirements for Kin-GAP, is necessary to comply with 42 U.S.C. § 675(1)(F)(iv). This section is also consistent with information required in the case plan pursuant to W&I Code sections 706.6 and 16501.1(f)(15). Proposed MPP section 45-600 et seq. contains the funding and eligibility requirements for Kin-GAP.

Section 31-206.318(e), regarding the efforts the agency has made to discuss adoption with the child's relative caregiver, is necessary to comply with 42 U.S.C. § 675(1)(F)(v). This section is also consistent with information required in the preliminary assessment pursuant to W&I Code sections 366.21(i)(2)(B), 366.22(c)(2)(B), 366.25(b)(2)(B), 361.5(g)(2)(B) and 727.3(a)(3) and included in the case plan update.

Section 31-206.318(f), regarding the efforts the agency has made to discuss the kinship guardianship assistance arrangement with the child's parent(s), is necessary to comply with 42 U.S.C. § 675(1)(F)(vi). This section is also consistent with information required in the case plan pursuant to W&I Code sections 16501.1(f)(12)(A) and 706.6(o).

Section 31-225.17

Specific Purpose:

This section is being adopted to require, for a child for whom the permanency plan is a kinship guardianship, that all of the information required in proposed Sections 31-206.318(a) through (f) is included in the child's case plan update documentation.

Factual Basis:

This section is necessary to comply with the federal requirements in 42 U.S.C. § 675(1)(F) and for consistency with related state requirements, as identified in the justification under Sections 31-206.318(a) through (f).

This section is also necessary because the point at which the permanency plan for a child becomes a kinship guardianship can vary from case to case. In cases where it is clear from the outset that the permanency plan for a child will be a kinship guardianship, the information required in Sections 31-206.318(a) through (f) will generally be included in the initial case plan documentation. In cases where the permanency plan for such a child evolves over time, the information required in Sections 31-206.318(a) through (f) will generally be included later in the case plan update documentation.

Section 31-425.4

Specific Purpose:

This section is being adopted to require that certain information, to be specified in the ensuing sections, be provided to a relative caregiver when it is anticipated that the permanent placement for a child will be a kinship guardianship.

Factual Basis:

This section is necessary for clarity and consistency and to serve as an introduction to the ensuing sections.

Section 31-425.41

Specific Purpose:

This section is being adopted to require that written information comparing and contrasting Kin-GAP benefits, Adoption Assistance Program (AAP) benefits and AFDC-FC benefits be provided to a relative caregiver when it is anticipated that the permanent placement for a child will be a kinship guardianship.

Factual Basis:

This section is necessary to comply with W&I Code sections 11364(e) and 11387(e).

Handbook Section 31-425.412

Specific Purpose:

This handbook section is being added to provide information on available resources regarding Kin-GAP benefits, AAP benefits and AFDC benefits.

Factual Basis:

This handbook section is necessary for clarity and to help counties meet the requirement in proposed Section 31-425.41.

Section 31-425.42

Specific Purpose:

This section is being adopted to require that, prior to the establishment of a kinship guardianship and the termination of the child's dependency or wardship, both a copy of and an explanation of the SOC 369 form and the SOC 369A form be provided to the relative caregiver.

Factual Basis:

This section is necessary to comply with W&I Code sections 11364(e) and 11387(e), which require the appropriate entity (i.e., county child welfare agency, probation department, or tribe(s) or tribal organization) to provide written information comparing and contrasting Kin-GAP benefits, AAP benefits and AFDC-FC benefits to a relative caregiver when it is anticipated that the permanent placement for a child will be a kinship guardianship. Both the SOC 369 form and the SOC 369A form contain related information.

This section is also necessary for consistency with W&I Code sections 11364(a) and 11387(a), which require the appropriate entity to enter into a written, binding kinship

guardianship agreement with the relative guardian of an eligible child and to provide a copy of the agreement to the relative guardian. The SOC 369 form and the SOC 369A form together constitute this written agreement.

Please also see the justifications for Sections 31-425.41, 31-425.412, 31-03.1.1(s)(1) and 31-03.1.1(s)(2).

Section 31-425.43

Specific Purpose:

This section is being adopted to require that information on the availability of mental health services through Medi-Cal or other programs be provided to a relative caregiver when it is anticipated that the permanent placement for a child will be a kinship guardianship.

Factual Basis:

This adoption is necessary to comply with W&I Code sections 11364(e) and 11387(e).

Section 31-425.44

Specific Purpose:

This section is being adopted to require that information on access to medically necessary specialty mental health services are provided to a relative caregiver when it is anticipated that the permanent placement for a child will be a kinship guardianship.

Factual Basis:

This section is necessary to comply with W&I Code section 11376.

Handbook Section 31-425.441

Specific Purpose/Factual Basis:

This handbook section is being added to provide the text of W&I Code section 11376 for clarity, consistency and ease of use.

Section 31-503.1

Specific Purpose/Factual Basis:

This section is being amended to correct a cross-reference and to make a minor editorial change for clarity and consistency.

Section 31-503.11

Specific Purpose/Factual Basis:

This section is being amended to make minor editorial changes for clarity and consistency.

Section 31-503.112(c)

Specific Purpose/Factual Basis:

This section is being amended to make a minor editorial change for clarity and consistency.

Section 31-503.113 and 31-503.113(a) and (b)

Specific Purpose:

These sections are being adopted to require the social worker, when the child's case plan goal is legal guardianship with a relative and receipt of Kin-GAP is anticipated, to consider whether payment of child support by the parent will pose a barrier to a successful outcome of the child's permanent plan in that payment of support may compromise either the child's situation or the situation of other children in the parent's household.

Factual Basis:

These sections are necessary to comply with Family Code (FC) section 17552(a). The provisions in FC section 17552 relating to Kin-GAP were added by AB 1712.

More specifically:

In addition to being necessary to comply with FC section 17552(a), Section 31-503.113 is necessary for consistency with existing Sections 31-503.111 and 31-503.112, which require the social worker to perform similar analyses under different circumstances relative to the child's case plan.

Section 31-503.113(a) is necessary to comply with specific language in FC section 17752(a). This section is also necessary to protect the best interests of the child by ensuring that the social worker considers whether the stability of the child's current placement with the proposed relative guardian would be jeopardized by the parent's payment of support.

Section 31-503.113(b) is necessary to comply with FC section 17752(a). It is also necessary for consistency with existing Sections 31-503.111(c) and 31-503.112(c).

Section 31-503.21

Specific Purpose:

This section is amended to clarify that this section only applies to existing Sections 31-503.111 and 31-503.112 and to make a minor editorial change.

Factual Basis:

This amendment is necessary for clarity and consistency, especially in light of the addition of proposed Section 31-503.113, which pertains to Kin-GAP cases and not to the circumstances described in existing Sections 31-503.111 or 31-503.112.

Please also see the justification under proposed Section 31-503.22.

Section 31-503.22

Specific Purpose:

This section is being adopted to establish, in the case of a child who is in the care of a kinship guardian and in receipt of Kin-GAP, the time frame within which a county is to review the decision of whether or not it is in the child's best interest to refer the case to the local child support agency.

Factual Basis:

This section is necessary to comply with FC section 17552(c), which requires a county to review its decision regarding child support at the time of reassessment (or redetermination) of the child's eligibility for Kin-GAP pursuant to W&I Code sections 11364(b)(1) and 11387(b)(1). Such a reassessment is necessary so that the county can determine, in consultation with the child's kinship guardian, if a revised decision regarding child support is necessary as the circumstances of the kinship guardian and the needs of the child change over time.

Section 31-503.221

Specific Purpose:

This section is being adopted to establish that, if the child's Kin-GAP benefits are terminated, the child's case is to be referred to the local child support agency if that is determined to be in the child's best interest.

Factual Basis:

This section is necessary for consistency with FC section 17552(a), which pertains to the requirement to make an initial determination of whether it is in the best interest of the

child to have the case referred to the local child support agency, and with FC section 17552(c), which pertains to the requirement to re-determine later whether it is still contrary to the child's best interest to have the case referred to the local child support agency.

This section is also necessary to protect the best interests of the child. It does so by ensuring that termination of the child's Kin-GAP benefits, which would represent a significant change in the child's circumstances, would trigger a redetermination of whether the child's case should be referred to the local child support agency. Thus, even though the child would no longer be eligible to receive Kin-GAP, the child may be entitled to receive child support as an alternative funding source.

Section 45-600

Specific Purpose:

This section is being adopted to explain the purpose of the state and federal Kin-GAP Program as being a permanency option for foster children when reunification with the child's parents and adoption are not possible.

Factual Basis:

The W&I Code sections 11360 to 11379 create and establish the eligibility for the state Kin-GAP Program and Sections 11385 to 11393 create and establish the eligibility for the federal Kin-GAP Program to continue aid on behalf of a former foster child who is permanently residing with a kinship (relative) guardian pursuant to Sections 360, 366.26 or 728 of the W&I Code.

Section 45-601.1

Specific Purpose:

This section is being adopted to ensure consistency and the uniform application of terms in the provision and administration of child welfare services in California, including the administration of the state and federal Kin-GAP Programs. The definitions are the same as those found in Sections 11-400, 31-002 and 45-101, unless otherwise specified in proposed Section 45-601.1.

Factual Basis:

Definitions established in W&I Code sections 11360 to 11379 for the state Kin-GAP Program and Sections 11385 to 11393 for the federal Kin-GAP Program are necessary to provide clarity and uniformity in the administration of the state and federal Kin-GAP Programs.

Section 45-601.1(a)(1)

Specific Purpose:

This definition is being adopted to be consistent with placement requirements in Section 31-445 and W&I Code section 361.4. This definition clarifies that the kinship guardian's home has a current relative approval prior to the child being transferred from a child welfare services case to a Kin-GAP case.

Factual Basis:

The W&I Code sections 11363(a)(2) for the state Kin-GAP Program and 11386(a)(2) for the federal Kin-GAP Program require that prior to the establishment of the kinship guardianship the child resided in his/her relative's approved home for at least six consecutive months under the jurisdiction of the juvenile court or a voluntary placement agreement. This definition is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-601.1(a)(2)

Specific Purpose:

This definition is being adopted to clarify which judicial proceedings will satisfy eligibility requirements for Kin-GAP. A relative whose guardianship was established in the probate court does not satisfy Kin-GAP eligibility requirements.

Factual Basis:

The W&I Code sections 11363(a)(3) and (4) for the state program and 11386(d) and (e) for the federal program identify the judicial proceedings that satisfy the eligibility requirements for continued aid under the Kin-GAP Program. This regulation is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-601(c)(1)

Specific Purpose:

This definition cross-references MPP section 31-200 for purposes of adding case plan requirements that may impact a child's eligibility prior to a child transitioning from a child welfare services case to a federal Kin-GAP case.

Factual Basis:

The U.S.C. 42 § 675(1)(F) requires the case plan to include certain provisions when transitioning a child from the federal AFDC-FC Program to Kin-GAP. This definition is

necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-601.1(c)(2)

Specific Purpose:

This definition is being adopted to establish that the county where the legal guardianship was established has payment responsibility for the life of the Kin-GAP case even if the child changes his/her county of residence.

Factual Basis:

The W&I Code sections 11374(a) and 11390(d) state that the county that formally had court-ordered jurisdiction under Sections 300, 601 or 602 over an eligible child shall be responsible for making the Kin-GAP payment regardless of where the child actually resides. This definition is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-601.1(f)

Specific Purpose:

This definition is being adopted to establish which Kin-GAP Program is used when federal financial participation is provided.

Factual Basis:

The W&I Code section 11386 defines the eligibility requirements for the federal Kin-GAP Program. This definition is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-601.1(k)(1)

Specific Purpose:

This definition cross-references MPP section 31-002(k)(3) for purposes of adopting definitions that are consistent with child welfare services regulations.

Factual Basis:

The W&I Code sections 11362(b) for the state Kin-GAP Program and 11391(b) for the federal Kin-GAP Program define a kinship guardian. This definition is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-601.1(k)(2)

Specific Purpose:

This definition cross-references MPP section 31-002(k)(4) for purposes of adopting definitions that are consistent with child welfare services regulations.

Factual Basis:

The W&I Code sections 11362(a) for the state Kin-GAP Program and 11391(a) for the federal Kin-GAP Program define the aid paid on behalf of a former foster child living with his/her kinship guardian. This definition is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-601.1(n)

Specific Purpose:

This definition cross-references MPP section 31-002(n)(3) for purposes of adopting definitions that are consistent with child welfare services regulations.

Factual Basis:

The W&I Code sections 360, 366.26 or 728(d) define a person 18 years of age or older for purposes of the Kin-GAP Program.

Section 45-601.1(r)(1)

Specific Purpose:

This definition is being adopted to clarify that the child or nonminor former dependent are the recipients of the Kin-GAP payment.

Factual Basis:

The W&I Code sections 11363 or 11386 define recipients for purposes of Kin-GAP eligibility.

Section 45-601.1(r)(2)

This definition is being adopted to clarify the requirements of a relative for purposes of the federal Kin-GAP Program.

Specific Purpose and Factual Basis:

The W&I Code section 11391(c) defines the federal Kin-GAP relative requirements. Please also see the justification under Section 31-002(r)(5).

Section 45-601.1(r)(3)

Specific Purpose:

This definition cross-references MPP section 31-002(r)(5) for purposes of adopting definitions that are consistent with child welfare services regulations.

Factual Basis:

The W&I Code section 11362 define the state Kin-GAP relative requirements.

Section 45-601.1(s)(1)

Specific Purpose and Factual Basis

This definition is being adopted to clarify a child's relationship to a sibling for purposes of eligibility to the federal Kin-GAP Program. The W&I Code section 11391(d) implements the federal definition pursuant to federal Policy Interpretation 11-09.

Section 45-601.1(s)(2)

Specific Purpose

This definition is being adopted to establish which Kin-GAP Program is used when there is no federal financial participation provided.

Factual Basis:

The W&I Code section 11363 defines the eligibility requirements for the state Kin-GAP Program. This definition is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Former Section 90-101(k)(1) is now Section 45-601.2(k)(1)

Specific Purpose:

This form is a mutual agreement between the placing agency and the nonminor dependent when the child receiving Kin-GAP plans to emancipate upon completing his/her high school or vocational program. This form is necessary for establishing the child's Kin-GAP eligibility for continued receipt of aid.

Factual Basis:

The W&I Code section 11403.01 allows a Kin-GAP payment to be made on behalf of a nonminor dependent after the age of 18 if the nonminor dependent is in the process of attaining a high school diploma or a high school equivalency or avocational training certificate, prior to reaching the age of 19, if the nonminor dependent resides with his/her kinship guardian and has signed the Mutual Agreement (KG 1) with the placement agency. This form is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Former Section 90-101(k)(2) is now Section 45-601.2(k)(2)

Specific Purpose:

This form is being adopted to standardize the process for documenting a child's initial and ongoing eligibility to the Kin-GAP Program.

Factual Basis:

The W&I Code sections 11364(b)(1) for the state Kin-GAP Program and 11387(b)(1) for the federal Kin-GAP Program require that the amount of aid shall be reviewed periodically but no less frequently than every two years. This form is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-601.2(k)(3)

Specific Purpose:

This form is a mutual agreement between the placing agency and the nonminor dependent when the child receiving Kin-GAP meets the requirements for extended Kin-GAP. This form is necessary for establishing the child's Kin-GAP eligibility for continued receipt of aid.

Factual Basis:

The W&I Code section 11403(b) allows a Kin-GAP payment to be made on behalf of a nonminor dependent after the age of 18. This form is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-601.2(s)(1)

Specific Purpose:

The SOC 369 (12/10) form is cross-referenced in MPP section 31-003(s)(1) for purposes of adopting forms that are consistent with child welfare services regulations.

Factual Basis:

The W&I Code sections 11363 and 11386 allow a Kin-GAP payment to be made if this form is completed. This form is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-601.2(s)(2)

Specific Purpose:

The SOC 369A (11/11) form is cross-referenced in MPP section 31-003 for purposes of adopting forms that are consistent with child welfare services regulations.

Factual Basis:

The W&I Code sections 11363 and 11386 allow a Kin-GAP payment to be made if this form is completed. This form is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Sections 45-602, .1 through .212

Specific Purpose:

The regulations that apply to both the state and federal Kin-GAP Programs are contained in these sections. Additionally, these regulations are being adopted to establish that the child transferring from a child welfare services case to a Kin-GAP case had been placed in an approved home of a relative pursuant to Section 31-445.

Factual Basis:

The W&I Code sections 11363(a)(2) for the nonfederal Kin-GAP Program and 11386(a)(2) for the federal Kin-GAP Program require that the child be residing in the approved home of the prospective relative guardian. These regulations are necessary for consistency and uniformity in statewide administration of the Kin-GAP Program.

Section 45-602.3 through .313

Specific Purpose:

This regulation provides that Kin-GAP is available to a minor that is less than 18 years of age or less than 19 years of age if completing education or a vocational program. Effective January 1, 2012, the Kin-GAP age requirement was extended on an annual basis until January 2014 to less than the age of 21 if the guardianship was established on or after the child's 16th birthday.

Factual Basis:

State statute has implemented federal legislation (Public Law 110-351), which allows for the continuation of aid after a child's 18th birthday provided certain requirements are met pursuant to W&I Code sections 11363(d) and 11386(h) for the nonfederal and federal Kin-GAP Programs, respectively. These regulations are necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-602.4 through .42

Specific Purpose and Factual Basis:

These regulations are being adopted to establish that a foster child is eligible for Kin-GAP if the child was removed from his/her home pursuant to a voluntary placement agreement or an involuntary juvenile court proceeding pursuant to W&I Code sections 300, 601 or 602, and pursuant to W&I Code sections 11363(a) and 11386(a)(1). These regulations are necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-602.5 through .52

Specific Purpose and Factual Basis:

These regulations are being adopted to establish that the exceptions to property requirements in the nonfederal and federal AFDC-FC Program also apply to the state and federal Kin-GAP Programs. These regulations are necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-602.6

Specific Purpose and Factual Basis:

This regulation is being adopted to clarify that the citizenship and alienage requirement in the California Work Opportunity and Responsibility to Kids (CalWORKs) and AFDC-FC Programs also apply to the state and federal Kin-GAP Programs. This regulation is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Former Section 90-110(i) is now Section 45-602.7, .71

Specific Purpose and Factual Basis:

This regulation is adopted to ensure that record requirements for the child welfare services and public assistance programs apply to the state and federal Kin-GAP Programs. This regulation is necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-602.8 through .84

Specific Purpose and Factual Basis:

Pursuant to W&I Code sections 11364(b)(1) and 11387(b), these regulations are being adopted to comply with statutory requirements that redeterminations be completed no less frequently than every two years. These regulations are necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-604, .1, and .11

Specific Purpose:

These regulations are adopted pursuant to W&I Code section 11386(a)(2), which limits eligibility to the federal Kin-GAP Program to those children having transferred to Kin-GAP from the federal AFDC-FC Program.

Factual Basis:

Federal statute, 45 U.S.C. § 671 (a)(29)(D), allowed states to exercise the option of making kinship guardianship payments under Title IV-E. California exercised that option to claim federal financial participation in Kin-GAP payments on behalf of federally eligible children. These regulations are necessary for consistency and uniformity in the statewide administration of the federal Kin-GAP Program.

Section 45-604.2 through .23

Specific Purpose and Factual Basis:

These regulations are being adopted to establish that a foster child is eligible for federal Kin-GAP if the child was removed from his/her home pursuant to a voluntary placement agreement or involuntary juvenile court pursuant to W&I Code sections 300, 601, 602 and 11386(a)(1). These regulations are necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-604.3

Specific Purpose:

This regulation is being adopted to clarify that a mutual agreement between the relative and the placement agency must be signed prior to establishing the kinship guardianship. The SOC 369 and SOC 369A are the standardized forms used to document this agreement.

Factual Basis:

Federal statute, 45 U.S.C. § 673(d)(1)(A)(i), and W&I Code section 11387(a) require that the relative enter into a written binding agreement with the child welfare services agency. This regulation is necessary for consistency and uniformity in the statewide administration of the federal Kin-GAP Program.

Section 45-604.4

Specific Purpose:

This regulation is being adopted to provide that a federal Kin-GAP payment may be made on behalf of a sibling of a federally eligible Kin-GAP child when the sibling is placed with the kinship guardian of the federally eligible Kin-GAP child.

Factual Basis:

The W&I Code section 11388 provides that federal financial participation may be claimed on behalf of the federally eligible Kin-GAP child's sibling, regardless of the sibling's federal eligibility. This regulation is necessary for consistency and uniformity in the statewide administration of the federal Kin-GAP Program.

Section 45-604.5

Specific Purpose and Factual Basis:

This section is being adopted to ensure that child welfare services information that supports Kin-GAP eligibility is maintained after the child welfare services case is closed.

Section 45-605.1

Specific Purpose and Factual Basis:

These regulations are adopted pursuant to W&I Code section 11361, which establishes eligibility for the state Kin-GAP Program for dependent children that were in long-term stable placements with relatives but were ineligible for the federal AFDC-FC Program.

Section 45-605.2 through .212

Specific Purpose and Factual Basis:

These regulations are being adopted to establish that a foster child is eligible for state Kin-GAP if the child was removed from his/her home pursuant to an involuntary court proceeding pursuant to W&I Code sections 300, 601, 602 and 11363(a). These regulations are necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-605.3

Specific Purpose:

This regulation is being adopted to clarify that a mutual agreement between the relative and the placement agency must be signed when establishing the kinship guardianship. The SOC 369 and SOC 369A are the standardized forms used to document this agreement.

Factual Basis:

The W&I Code section 11364(a) requires that the relative enter into a written binding agreement with the child welfare services agency. This regulation is necessary for consistency and uniformity in the statewide administration of the state Kin-GAP Program.

Section 45-605.4

Specific Purpose and Factual Basis:

This section is being adopted to ensure that child welfare services information that supports Kin-GAP eligibility is maintained after the child welfare services case is closed.

Section 45-605.5, .51

Specific Purpose:

This regulation is being adopted to establish the placement requirement for a subsequent or co-guardian. This regulation is necessary for consistency and uniformity in the statewide administration of the nonfederal Kin-GAP Program.

Factual Basis

The W&I Code section 11363(e) for the state Kin-GAP Program establishes when Kin-GAP payments should be made to a subsequent or co-guardian.

Sections 45-606, 45-606.1

Specific Purpose:

This section is being adopted to enable a Kin-GAP eligible child to receive Kin-GAP benefits beyond his/her 18th birthday if the relative became the kinship guardian on or after the child's 16th birthday, provided specific requirements are met.

Factual Basis:

The W&I Code sections 11363(d) for the state Kin-GAP Program and 11386(h) for the federal Kin-GAP Program provide for extended Kin-GAP benefits provided the nonminor dependent meets specific criteria and has entered into an agreement with the child welfare services agency. These regulations are necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-607, .1, .11 and .12

Specific Purpose:

These sections are being adopted to clarify that Kin-GAP payments are prospective and begin on the first of the month following the month eligibility was established.

Factual Basis:

W&I Code section 11374(b) for the state Kin-GAP Program and 11390(e) for the federal Kin-GAP Program establish when the initial Kin-GAP benefit payment may be made on behalf of an eligible child. These regulations are necessary for consistency and uniformity in the statewide administration of the Kin-GAP Programs.

Section 45-607.2 through .213

Specific Purpose:

These sections are being adopted to clarify circumstances under which the Kin-GAP payment should be suspended.

Factual Basis:

The W&I Code sections 11363 and 11386 establish requirements that need to be met in order for the Kin-GAP payment to be continued.

Section 45-607.3 and .31

Specific Purpose:

This section is being adopted to establish that any adjustments to the Kin-GAP payment shall be computed based on known or estimated income in the current calendar month.

Factual Basis:

The W&I Code section 11364(b)(5) for the state Kin-GAP Program and 11387(b)(5) for the federal Kin-GAP Program require the kinship guardian to report any changes in the

needs of the child or the circumstances of the relative guardian that can affect payment. This will reduce the possibility of an overpayment being made.

Section 45-607.4 through .43

Specific Purpose:

These sections are being adopted to establish criteria that end eligibility for the state and federal Kin-GAP Programs.

Factual Basis:

The W&I Code sections 11363(b) and (d) for the state program and 11386(h) and (I) for the federal program establish parameters based on age and authority for making payment. If either of these criteria are not met, that constitutes a basis for no longer receiving aid. These regulations are necessary for consistency and uniformity in the statewide administration of the Kin-GAP Programs.

Section 45-607.5, .51

Specific Purpose and Factual Basis:

These regulations are being adopted to clarify that a Kin-GAP case does not need to be discontinued if the child's parent moves into the home.

Section 45-607.6 through .63

Specific Purpose and Factual Basis

These regulations are being adopted to establish that the income requirements that apply to the CalWORKs and federal Dependent Children-Foster Care (AFDC-FC) Programs also apply to the nonfederal and federal Kin-GAP Programs. These regulations are necessary for consistency and uniformity in the statewide administration of the Kin-GAP Program.

Section 45-607.7 through .72

Specific Purpose and Factual Basis:

These regulations are being adopted to establish a Kin-GAP payment offset for income that does not meet the CalWORKs or federal AFDC-FC income requirements.

Section 5-607.8 through .85

Specific Purpose and Factual Basis:

These regulations are being adopted, pursuant to W&I Code sections 11363(e) for the state program and 11386(f) for the federal program, to establish Kin-GAP payment guidelines when a 388 petition is filed.

b) Identification of Documents Upon Which Department Is Relying

Federal Legislation

- Public Law 110-351, Fostering Connections to Success and Increasing Adoptions Act of 2008

State Legislation

- SB 1901, Chapter 1055, Statutes of 1998
 - Initially established the state Kin-GAP program, which became available to eligible children exiting the juvenile court dependency system on or after January 1, 2000 to live with a kinship guardian.
- AB 1808, Chapter 75, Statutes of 2006
 - Extended the provisions of the state Kin-GAP program to eligible probation youth exiting the delinquency system to live with a kinship guardian.
- AB 12, Chapter 559, Statutes of 2010
 - Implemented new federal legislation that allows for Kin-GAP benefits to be eligible for federal financial participation.
 - Reduced the amount of time a child has to live with a relative caregiver in order to qualify for Kin-GAP, from 12 months to six months.
 - Allows California to extend foster care up to age 21 under certain conditions.
- AB 212, Chapter 459, Statutes of 2011
 - Authorized certain Kin-GAP recipients to continue to receive Kin-GAP aid after 18 years of age.
- AB 1712, Chapter 846, Statutes of 2011

- Changed the definition of “relative” to include nonrelative extended family members (NREFM), subject to federal approval and for purposes of federal Kin-GAP only.
- SB 1013, Chapter 35, Statutes of 2012
 - Trailer bill

Statutes

- State Kin-GAP Program, W&I Code section 11362 et seq.
- Federal Kin-GAP Program, W&I Code section 11385 et seq.

All-County Letters

- ACL 11-15, New Kin-GAP Program Requirements, January 31, 2011
- ACL 11-67, Case Plan and Kin-GAP Program, October 6, 2011

Forms

- Form KG 1 (12/11), Kin-GAP Mutual Agreement for 18 Year Olds
- Form KG2 (1/11), Statement of Facts Supporting Eligibility for Kin-GAP Program
- Form KG 3 (12/11), Kin-GAP Mutual Agreement for Nonminor Former Dependents
- SOC 369 (12/10), Agency-Relative Guardianship Disclosure
- SOC 369A (11/11), Kin-GAP Program Agreement Amendment

Other Documents

- Letter from the federal Department of Health and Human Services, dated May 19, 2014, approving CDSS’ request to amend its definition of “relative” to include fictive kin for purposes of federal Kin-GAP

c) Local Mandate Statement

As they relate to programs that were realigned within 2011 Realignment Legislation, these regulations do not have the overall effect of increasing the costs already borne by the local agency. These regulations do not impose any mandate upon school districts.

These regulations do impose a mandate upon local agencies as they relate to programs not included in 2011 Realignment Legislation and there are “state-mandated local costs” in these regulations which require state reimbursement under Section 17500 et. seq of the Government Code.

d) Statement of Alternatives Considered

An alternative has not been identified or proposed by the public that would be more effective in carrying out the purpose for which the regulations are being proposed. These regulations do not have an adverse impact on small business.

e) Statement of Significant Adverse Economic Impact on Business

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the statutes that established the state and federal Kin-GAP Programs.

The Kin-GAP Program is not new. SB 1901, Chapter 1055, Statutes of 1998, initially established the state Kin-GAP Program, which has been operational since January 1, 2000. Subsequently, AB 12, Chapter 559, Statutes of 2010, implemented new federal legislation that permitted Kin-GAP to be eligible for federal financial participation, leading to the creation of the federal Kin-GAP Program in California. Among other things, subsequent legislation authorized certain Kin-GAP recipients to continue to receive Kin-GAP after 18 years of age.

The above legislation also established the eligibility criteria for children to receive state and federal Kin-GAP. An eligible child must be a dependent or ward of the California juvenile court, reside in the home of an approved relative caregiver for six consecutive months, have a kinship guardianship established and have his or her dependency dismissed.

Eligible children are the only beneficiaries of the state and federal Kin-GAP Programs. No new business has been created under these proposed regulations that would have an economic impact on any entity in California. As a result, CDSS has determined that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting other businesses, including the ability of California businesses to compete with businesses in other states. If anything, the proposed regulations may benefit California businesses, since the Kin-GAP Program provides approved relative caregivers with the funds necessary to support the children in their care.

f) Economic Impact Assessment

The adoption of the proposed regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

Current law requires county child welfare workers to inform approved relative caregivers about state and federal funding options for children in care. County child welfare eligibility workers are currently required to determine the type of funding that an approved relative caregiver may receive on behalf of an eligible child. Regardless of the funding source being considered—whether it is Kin-GAP or another funding source—the tasks that a county child welfare eligibility worker must perform in order to determine whether a particular child is eligible for a particular funding source are essentially the same. As a result, CDSS has determined that these regulations do not have an impact on the creation or elimination of jobs in the State of California.

Accordingly, child welfare agencies will not expand nor will new agencies be created as a result of these regulatory changes. Therefore, CDSS has determined that these regulations do not have an impact on businesses.

g) Benefits Anticipated from Regulatory Action

The proposed regulations will help ensure that all California children who were under the jurisdiction of a California court, placed in out-of-home care and had a kinship guardianship established and dependency dismissed to receive the financial assistance to which they are entitled.

h) Statement of Specific Technology or Equipment

This regulatory action will not mandate the use of new, specific technologies or equipment.